

**TOWN OF SULLIVAN  
ZONING BOARD OF APPEALS  
OCTOBER 13, 2022  
7:00 P.M.**

A regular meeting of the Zoning Board of Appeals of the Town of Sullivan was convened at the Town Office Building by Chairman Steve Durfee at 7:04 P.M.

Those in attendance for the meeting were: Chairman Steve Durfee, Members Terry Manning, Clifford Reals, Michael Keville, and Luke Capria

Also present: Larry Ball, Building/Codes Administrator

**PUBLIC HEARING**

**7:00 P.M. – CHITTENANGO SOLAR LLC: AREA VARIANCE (8278 LAKEPORT RD., 17-1-6) ALLOW GROUND MOUNTED SOLAR SYSTEM WITHIN 1000 FT. OF WETLANDS.**

Chairman Steve Durfee re-opened the public hearing from the 8/11/22 meeting and addressed the new packets of information that was received. Travis Mitchell representing Nexamp gave presentation on project and site plan review after hearing the Boards feedback from the last meeting. Travis discussed detailed plan and comments, 3.1 MW on 16 acres in the area of Lakeport Rd. and Smith Ridge Rd., 500 feet off Lakeport Rd. within the fence. layout has not changed with central electrical equipment and then the array. They put together a draft into cost plan and decommissioning value, operation on maintenance and plan provided on screening buffer, new trees and how land would be maintained. Travis also discussed where the panels would be made. Ken Knutsen from Barton & Loguidice appeared and he had met with the Planning Board Chairman, Zoning Board Chairman and the Town Attorney regarding the project and steps.

Travis Mitchell provided an overview of the project and details in the packet, the visual impacts, views from Smith Ridge Rd., views from the Mobile Home Park, green space and vegetation plantings. They have spoken to the Army Corp regarding wetlands, restrictions and preserving the area. He explained the main focus with this Board is the wetlands, started the project in early 2021 looking at drainage, DEC and Army Corp maps. Attorney John Ahearn confirmed that the law is 1000 feet from any wetlands and discussed the farm land. He explained that there is no place to move the project that would not impact wetlands.

They are in front of the Planning Board for site plan review and special use permit and they will take action as lead agency for SEQR. The Zoning Board needs SEQR completed prior to variance request, the Planning Board cannot take action on site plan and SUP until Zoning Board determination, going back and forth between the two Boards trying to move forward.

Member Cliff Reals asked about examples of building these on Army Corp wetlands. Travis stated that the Planning Board and Barton & Loguidice have asked for a very detailed construction plan of how this gets done. They are working on that with examples and photos

of other installations to present at the Planning Board meeting in November.

Chairman Durfee asked if this is in Army Corp wetlands. Travis stated a portion is and that Army Corp does not consider solar panels, post and fencing as disturbance as long as driven in the ground. They do however look at the gravel roadway and concrete pads that would house the equipment as a disturbance. They have certain thresholds that have to be stayed under per the Army Corp first being the 1/10 of an acre of a disturbance.

Chairman Durfee asked about the Beebe Bridge canal project being in the wetlands. Liza Schepps from Nexamp said she would double check but does not believe so. She explained as she did at the last meeting that wetlands with solar are common. They have their own construction group that designs the projects and tries to minimize any disturbance. She went over the history that was discussed at last meeting in regards to acreage and permits that would need to be obtained.

Chairman Durfee reminded everyone that the Zoning Board cannot make a decision on the variance until SEQR is completed by the Planning Board but asked if anyone would like to speak or have questions.

Art Lelio from 2708 Waterbury Rd. appeared and discussed the wetlands and disturbance not only to the wetlands but to the flora and fauna as well. He gave a list of his questions and concerns to the Board members.

The visual map with the colors of different wetlands was discussed further in detail. The Army Corp has jurisdiction over DEC wetlands. Liza Schepps discussed when the project began, they did not think that it was wetlands looking at the on-line maps. When site visits were made is when the wetlands were delineated as Army Corp wetlands. They are going through the process with Ag and markets as far as the farm lands. Further discussion was held from the visual map in regards to the 16 acres for the project site versus the total of 273 acres, wetlands, farm lands, impacts from the road, how close the panels are together and these are tracker rotating panels. Liza Schepps explained the panels in further detail and the operation maintenance plans for vegetation.

Discussion was held in regards to the research for project, date started, process it entails (including on line information, National Grid power connections, survey, site soil samples, Town/Zoning laws and many other things, checking off the boxes). Liza was on website for application requirements, used code word search for solar and saw in the Town minutes dated 12/15/21 that there was a solar amendment, not being aware of the Town moratorium. Lengthy discussion was held about the Town moratorium and their process of due diligence.

Motion was made by Member Keville, seconded by Member Manning and unanimously passed by the Board to table the public hearing for the SEQR process to be completed.

## **NEW BUSINESS**

David Beloit, Tanya Beloit and Sonya Moshier appeared regarding 237 Esther Ave. (not on the agenda), wanting to subdivide but would leave the house on one lot that they would sell and leave only garage on the other lot. They are here to discuss a variance so that the

garage could stay and David could go there as he is an avid fisherman but does not live in the house now. It was explained that the Zoning code states no garage on vacant lots especially lakefront. If the area was already subdivided it would not be allowed either. The Board has to look at the future when properties are sold and no longer are owned by the same owner. This would be a USE Variance which is very difficult to achieve, there are legal standards that can not be met whether it is a pre-existing building or new building.

They asked the question of how some people in the area do have non primary structures on lots. These structures were there before codes and grandfathered. They would like to look at public files to see how approved. Member Keville explained that 15 years ago they may have been approved but legal criteria has changed and the Zoning Board has since been trained properly. He explained he thought the information that came to him prior to the meeting was for an AREA Variance but it would be the USE Variance. Member Manning explained that a neighbor of his had to link the properties in order to build a building. It was explained that they can come to the next meeting with the proper paperwork, make the appeal but will probably be turned down, it is an uphill battle to get USE Variances. The legal criteria questions for USE Variances were explained for proving financial hardship and showing it is not a self-created hardship. Proving all the legal criteria questions would have to be gone through before any decision would be made. It was confirmed that if a primary structure (house) was able to be built to go with the garage, the subdivision would then be able to possibly be approved with the Planning Board.

## **OLD BUSINESS**

## **APPROVAL OF MINUTES**

A motion was duly made by Member Manning, seconded by Member Capria, Member Reals abstained and unanimously passed by the Board approving the minutes of July 14, 2022.

A motion was duly made by Member Manning, seconded by Member Reals and unanimously passed by the Board approving the minutes of August 11, 2022.

## **ADJOURNMENT**

A motion was duly made by Member Keville, seconded by Member Reals and unanimously passed to adjourn the meeting at 8:39 P.M.

**Respectfully Submitted**  
**Jeri Rowlingson, Secretary**